

2C:46-1 and 2C:46-2

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:46-1 and 2C:46-2

(Penalty assessments
against criminals--amend
provision of collection and
enforcement)

LAWS OF: 1985

CHAPTER: 252

Bill No: A2806

Sponsor(s): Shusted and others

Date Introduced: October 22, 1984

Committee: **Assembly:** Judiciary

Senate: Judiciary

Amended during passage: Yes

Amendments during passage denoted
by asterisks.

Date of Passage: **Assembly:** May 13, 1985

Senate: June 27, 1985

Date of Approval: July 31, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: **Assembly** Yes

Senate No

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 2806

STATE OF NEW JERSEY

INTRODUCED OCTOBER 22, 1984

By Assemblymen SHUSTED, ROCCO, KERN and SCHUBER

AN ACT concerning the collection of fines, penalty assessments and
 restitution and amending N. J. S. 2C:46-1 and N. J. S. 2C:46-2.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

1 1. N. J. S. 2C:46-1 is amended to read as follows:

2 2C:46-1. Time and Method of Payment; Disposition of Funds.

3 a. When a defendant is sentenced to pay a *penalty assessment*
 4 *pursuant to section 2 of *[(C. 2C:43-3.1, P. L. 1979, c. 396)]* *P. L.*
 5 *1979, c. 396 (C. 2C:43-3.1), a** fine or to make restitution, the court
 6 may grant permission for the payment to be made within a specified
 7 period of time or in specified installments. If no such permission
 8 is embodied in the sentence, the *penalty assessment*, fine or restitu-
 8A tion shall be payable forthwith.

9 b. When a defendant sentenced to pay a *penalty assessment*,
 10 fine or to make restitution is also sentenced to probation, the court
 11 may make continuing payment of installments on the *penalty*
 12 *assessment*, fine or restitution a condition of probation.

13 c. The defendant shall pay a *penalty assessment, restitution, or*
 14 fine or any installment thereof to the officer entitled by law to
 15 collect the **[fine]** *payment*. In the event of default in payment,
 16 such agency shall take appropriate action for its collection.

1 2. N. J. S. 2C:46-2 is amended to read as follows:

2 2C:46-2. Consequences of Nonpayment; Summary Collection.

3 a. When a defendant sentenced to pay a *penalty assessment*, fine
 4 or make restitution defaults in the payment thereof or of any
 5 installment, the court, upon the motion of the person authorized

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
 is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted February 14, 1985.**

6-9 by law to collect the [fine or restitution,] *payment*, the motion of
 10 the prosecutor, *the motion of the victim entitled to payment of*
 11 *restitution, the motion of the Violent Crimes Compensation Board*
 12 or upon its own motion, may recall him, or issue a summons or a
 13 warrant of arrest for his appearance. After a hearing, the court
 14 may reduce *or suspend* the fine [or restitution, suspend to,] or
 15 modify the payment or installment plan[,] *for the fine, penalty*
 16 *assessment or restitution* or, if none of these alternatives is war-
 17 ranted, may impose a term of imprisonment to achieve the objective
 18 of the *[sentence]* **fine**. The term of imprisonment in such case
 19 shall be specified in the order of commitment. It need not be equated
 20 with any particular dollar amount but it shall not exceed one day
 21 for each \$20.00 of the fine nor 40 days if the fine*[, *penalty assess-*
 22 *ment or restitution*]* was imposed upon conviction of a disorderly
 23 persons offense nor 25 days for a petty disorderly persons offense
 24 nor one year in any other case, whichever is the shorter period.
 25 In no case shall the total period of imprisonment in the case of a
 26 disorderly persons offense for both the sentence of imprisonment
 27 and for failure to pay a fine*[, *penalty assessment or restitution*]*
 28 exceed six months. **When failure to pay a penalty assessment or*
 29 *restitution is determined to be willful, the failure to do so shall be*
 30 *considered to be contumacious.** When a fine, *penalty assessment or*
 31 *restitution* is imposed on a corporation, it is the duty of the person
 32 or persons authorized to make disbursements from the assets of the
 32A corporation or association to pay it from such assets and their
 32B failure so to do may be held to be contumacious.

33 b. Upon any default in the payment of a fine, [a] *penalty assess-*
 34 *ment*, restitution, or any installment thereof, execution may be
 35 levied and such other measures may be taken for collection of it
 36 or the unpaid balance thereof as are authorized for the collection
 37 of an unpaid civil judgment entered against the defendant in an
 38 action on a debt.

39 c. *Upon any default in the payment of restitution or any install-*
 40 *ment thereof, the victim entitled to the payment may institute*
 41 *summary collection proceedings authorized by subsection b. of*
 42 *this section.*

43 d. *Upon any default in the payment of a penalty assessment or*
 44 *any installment thereof, the Violent Crimes Compensation Board*
 45 **or the party responsible for collection* may institute summary*
 46 *collection proceedings authorized by subsection b. of this section.*

1 3. This act shall take effect immediately.

STATEMENT

Chapter 46 of Title 2C, the New Jersey Code of Criminal Justice, concerns the payment of criminal fines and court-ordered restitution. The code provides for the payment of fines and restitution within a specified period of time or in specified installments. Where the defendant defaults in the payment of a fine or restitution, adjustments may be made in the payment or the court may impose a term of imprisonment to achieve the objective of the sentence. A summary collection process may also be instituted.

Subsequent to enactment of the code, criminal defendants are now required to pay a mandatory penalty assessment upon conviction for an offense. This penalty assessment is used to support the award of compensation to crime victims through the Violent Crimes Compensation Board. There are no provisions in the code, however, concerning the enforcement of payment of penalty assessments.

The purpose of this bill is to amend relevant portions of the code to make the collection and enforcement provisions applicable to the payment or default in the payment of penalty assessments. Section 1 amends N. J. S. 2C:46-1 to clarify that penalty assessments are payable forthwith, however permission may be granted by the court to pay within a specified period of time or in installments. Section 2 amends N. J. S. 2C:46-2 to provide that execution may be levied or other collection measures taken upon default in the payment of a penalty assessment or an installment thereof. The amendments also authorize victims entitled to restitution and the Violent Crimes Compensation Board to seek the summary collection proceedings currently allowed in the event of default.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2806

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 1985

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No amendments set forth in this bill are intended to alter the mandatory nature of the Violent Crimes Compensation Board penalty assessment, or to permit a court to reduce or suspend the Violent Crimes Compensation Board assessment, or to permit the court to impose a term of imprisonment in lieu of payment of the Violent Crimes Compensation Board penalty assessment.